The Exact

Constable:

WITH HIS

Original and Power

in the Offices of *Churchwardens*, Overseers of the *Poor*, *Surveyours* of the *Highwayes*, *Treasurers* of the County Stock, and other inferiour Officers, as they are established, both by the *Common Laws* and *Statutes* of this Realm.

Fitted and Prepared to the meanest Capacity of either City or Country.

By *E. W.* of *Grays-Inn* Esq;

Non nobis nati sumus, sed partim Patriæ. Cic.

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TO THE Reader.

IT may seem an impertinent attempt, *to load you with this Treatise, there being already one in Print which carries the Face of the same* design. *But if you compare the* Time *and posture of* Affaires, *which produced that* Schem *of Laws with the present, which gives being to this, you may Rationally conclude, that those* Rules *for Government in the Civil and Ecclesiastical affaires*

faires are no more proper now then (The keepers of the Libertie of *England*, &c.) *are to be* the Supream Magistrate: *Those acts of* Obedience *and* Religion, *which then were taken for* Graces, *being now justly condemned for* Errors *and* Vices. *Not to reflect on the* Author *of the former* Compilement, *who being circumscribed by the* wilful *Dictates of the persons then in power, was, out of* fear *or somewhat* else, *forced to tune the* Law *as much as he could to their* Tyrannical *ears. Were he now to write on the same subject, he could not nor would have varyed a* Tittle *in substance from what is now exposed to your*

view,

view. But the same Garment *which was made for a* Monster, *cannot fit a Man. And therefore this which is here published, care hath been taken to comprehend all those Rules (and only those Rules) which by the ancient and modern Laws, those Officers to whom it is applied are obliged to observe. How well it is performed, is submitted to your Judgment; The compiler having no other design, then to throw in his Mite towards the establishing the desired and admirable Government of this Nation, and to contribute his assistance to all those Loyal and Active subjects, who conform to, and Act under the same.*

The

THE Contents.

Where High Constables and Petty Constables are Sworne. Page 5

The Constables Oath. p. 59

Who be Rogues by the Statute. p. 60

The Church-wardens Duty. p. 79

Of Supervisors, Surveyors, and orderers of Highwayes p. 97

Of the destruction of Noysome Fowle and Vermin. p. 109

The

The Offices and Duties of Constables, Church-wardens, Overseers of the Poor and Highwayes, County stock, Treasurers, and divers other petty Officers, as they are established by the common Laws of England.

Of Constables and their Antiquity.

CONstables were first established by the statute of *Winston* 1. and by divers other statutes since: their Office is to be attendants upon the Commonwealth for the maintenance of the peace, and are to execute the Warrants and pre-

cepts issuing out of Court Leets, from Justices of peace and Coroners within their precincts and liberties; *Lamb.* saith a Constable in a hundred and *Franchise*, is the Kings Majesties immediate Officer for the support and maintenance of the Kings peace. There are two sorts of Constables; high Constables and petty Constables; the high Constables are for the whole hundred; and comprehends many parishes and villages: heretofore there were two high Constables in every hundred, as you may read in *Lamb.* and *Dalton*; but at this day, there is but one; the other kind are petty Constables, and are only for some part of a Parish, Village, Hamlet

Hamlet or Tything within the Hundred; for in every Hundered there is a high Constable, & every petty Tything within the Hundred hath his petty Constable, or Tything-man or some under-Officer, and the petty Constables command is in part of the high Constables jurisdiction, and his Office by the antient common Laws of this Realm is the same with the high Constable as far as his Precincts extend; in divers Counties they are called by several appellations, as in *Warwick-shire* Thirdborrow, in *Kent* Borsholder, and in other places Burrowhead or Tythingman; and he that is so sworn, is in

effect the petty Constable of the place.

In the beginning of *Edw.* 3. were first appointed petty Constables for the aide and assistance of the high Constables of hundreds in their own Tythings or Burrows; in some parishes there are Constables, but generally in all there are Tithingmen or petty officers: in some places the Tythingman executes & commands the precepts of the Lord of a Mannor, and he is chosen and sworn at the Lords Court, and some are chosen at the Court Leet by the custome, and they are not compelled to do any thing, but what time out of mind, they have used to do: yet, all the afore

mentioned

mentioned Officers are comprehended in this word Constable.

Where High Constables and petty Constables are sworn.

THe making of High Constables, may be by Justices of Peace at quarter Sessions or at the Leet, either by the Steward or the grand Inquest as the custome is; heretofore they were sworn in the Sheriffs Torne. Petty Constables are most properly chosen by the Steward of the Leet himself or the Inquests presentment in the Leet: yet they may be chosen by Justices of peace in their quarter Sessions, and

as the cuſtom of the place is, for one or two years, and do uſually take their Oathes where they are choſen, or may, and ſometimes take their Oathes before a Juſtice of Peace at another time.

Dalton. P. 37 38.

Lamb. duty of Conſtable 8. 41. 42. Dal. 322. 323. 21 Edw. 3. 2.

A petty Conſtable may be made by one Juſtice of Peace out of Seſſions, as where one is choſen: and upon good matter ſhewed to the Juſtices, is taken off, and another choſe, or by death of the former Conſtable the Juſtice puts in another, for a preſent ſupply, eſpecially when the Quarter Seſſions or Leet are far off.

Manw. ca. 10

There muſt be fit perſons choſen for the Conſtables office,

office, not Clergy men; for if they be choſen, they ſhall be diſcharged by Writ.

He muſt be a lay perſon, not a woman; for although a maid be a houſe-keeper or dwell in a houſe where the owner was uſually to ſerve, the office is not to be choſen no more then a widdow can do ſuite in a Leet.

He muſt be *Idoneus*, one that in ſome meaſure hath knowledge to underſtand what belongs to his place; therefore an Ideot or Infant cannot ſerve.

He muſt be of known honeſty, one that will execute his office without malice or partiality; for a ſcandalous or contentious perſon cannot

Iu. Anno 1630. be fit, neither can an old or decripit, ſick, or an impotent or poor man; It was commanded by the King as a ſpecial direction for the Juſtices to chooſe of the ableſt of the Inhabitants; Which if obſerved, would be a great furtherance to the courſe of Juſtice throughout his Majeſties dominions; but it is the common courſe to put the office upon the pooreſt and weaker ſort, but they are miſtaken; for all are compellable to ſerve this office that ſhall be conſtrained to come to the Leet, except Sheriff, Lawyers, and Attournyes, which are to attend in their ſeveral places and vocations, and if they ſhould,

should, the Law allowes them Writs to discharge them.

Where one is under 21 years, he shall not be compelled to serve; nor an old man above 70 years, but may sue out his Writ *De non ponend. in assises. & Jurat. vide ff. 2 Herb. Nat. br.* And where a man hath Land in one Hundred and lives in another, and is chosen to serve in the place where the Land lyes, if he hath no house where his Land lyes, he shall not serve; for they are bound to serve in respect of their residency and not in respect of their Land; but if he have houses in either, and lives sometimes at

one, and ſometimes at the other, he may be made one at either Leet.

If there be a man choſen either by Steward of the Leet, or by preſentment there that is unfit, or by one Juſtice of Peace out of the Seſſions, the Juſtices at the Seſſions may remove him by their order, and a fit perſon ſhall be there elected and ſworn; but if he that is ſworn at the Leet be a fit perſon, he cannot be removed by the Juſtices, but by the Lord chief Juſtice or the Judges of that Circuit, by the opinion of all the Juſtices; neither can cuſtome or preſcription exempt any man that is ſo choſen at the Leet. And

if any man be fit and duly choſen in the Leet, he ſhall be there fined, if choſen by one Juſtice out of Seſſions, and he refuſe to be ſworn, he may be fined and indicted at the Seſſions.

A Conſtable may make a Deputy; for elſe how ſhould the place be ſupplyed in caſe of ſickneſs or other misfortune? but if there be negligence or miſdemeanor committed by the Deputy, the Conſtable ſhall be reſpondent and anſwerable for them; Yet if the Deputy be a fit perſon and ſworn into the place, the Deputy ſhall anſwer for himſelf; yet it hath been delivered for Law by the Judges, that this is rather

ther a toleration then Law.

High Constables of Hundreds are conservators of the Peace in their libertyes and Precincts by the common Law of *England*. 3 *Edw*. 4. 9. *Crompt. b. &* 122. 11. *Hen*. 7. *fol*. 18. Therefore the High Constables for any affray made at the petty Sessions may imprison the offendors. *Cook* 11. 43. 44.

In the Limits of their several Towns are conservators of the Peace; all petty Constables *Virtute officii*, *Bro. Peace. fol*. 127. *Tit*. Affray and forcible Entry; but they cannot take surety of the Peace, at the request of any man; yet they may *ex officio*, cause such as are in their

their presence, and are about to break the Peace, to find sureties for the Peace as well before the affray as after. 12 *Hen.* 7. 18. *Crom. b.* 222.

Any man that shall make an affray in the presence of the Constable or Borsholder, threaten to kill or beat another, or ready in an affray to break the Peace, the Constable or Borsholder shall commit them to the Stocks or to safe custody, and after carry them before a Justice, and refusing to give surety, may commit them to the Goal. 5 *Hen.* 4. 9. 10.

A Constable cannot take a Recognizance, because he

is no officer of Record; if an obligation, the queſtion is how it ſhall be certified and into what Court; and that it ſhould be inconvenient for to give Conſtables ſuch authority, was the reſolution of the Lord *Anderſon*; yet there were other Juſtices of opinion, that though they could not take bayl nor Recognizance; yet they might take ſurety by obligation; for the Peace was preſerved by Conſtables long before Juſtices of Peace; but the antient way of the keeping of the Peace, was by Writ out of the Kings Bench or Chancery.

Where a Conſtable had found any break the Peace, by

by the antient common Law it was thus; all such offendors the Constable might imprison in the Stocks, or at his own house, according to the quality of the person, untill they had been bound by obligation, with sureties to the King for the keeping of the Peace; which obligation was to be sealed and delivered to the Constable, to the Kings use, and the Constable was to send it into the Exchequer or Chancery, from whence process should be awarded to Levy the Debt, if the Peace were broken. *Vide Finch, Ch.* 127.

Any Constable, petty Constables Sheriff, Coroner or Justice of Peace, may by

the

the antient common Law, arreſt or impriſon all perſons whatſoever that ſhall be violators of the Peace, in any of their preſences, by virtue of their offices within their Juriſdictions or Limits; but they are to meddle only with affrays, aſſaults or batteries, or threatnings to break the Peace: and if they be negligent in their offices, may be indicted and fined for the ſame.

And if they have committed or bound over any for breach of the Peace, they muſt attend the Goal delivery or Seſſions of the Peace to declare offences for which they were bound over or committed.

The

The offices of Sheriffs, Coroners, Stewards, or the Sheriffs Torn of the Leet and of the Court of Pypowders, and all Juſtices of higher Courts, were long before the Conqueſt. *Vide Cook 49. pars in Præfacio.*

In *Lamb.* 16.17. you may read of many others who were by common Law, that had the cuſtody of the Peace, and were nominated *Cuſtodes pacis*; ſome were by election, other by tenure, others were by the Kings Writ, and had their duration for terme of their lives or *quamdiu ſe benè geſſerint*; but they are all antiquated and obſolete.

A Conſtable may arreſt any

any that ſhall make any affray; if he flyes into a houſe and ſhuts the doors, he may Juſtify his breaking open the doors; and if he flyes from thence in freſh ſuit, he may perſue him, though in an other County; and where two be a fighting, though no hurt done, he may apprehend them, and make them find ſureties for the Peace; and if any be mortally wounded, he may carry him to the Goal; for he is not Baylable, for the fact is felony in caſe the Party dyes within a year and a day.

If any ſhall aſſault a Conſtable doing his office, he may upon *ſe defend*, Juſtifie the killing of him, if he can-

not otherwiſe avoid it.

If a man be taken in or near the high way Robbing, and be brought to a Conſtable, he muſt forthwith bring him before a Juſtice of Peace to be examined, and if he finds cauſe, have him to the Goal.

If any do ſuſpect any of murder or felony, he ought to bring him to the Conſtable, that he may have him before a Juſtice, with him that ſuſpects him, that upon examination if it be found that there is any probability in it, the Conſtable may ſearch for him; and a Conſtable may arreſt one that is indicted of felony upon his own authority.

If

If any fly for felony, it is the office of the Constable to seize his goods; for if they should be embezelled, he must answer for them; therefore it is best to Inventory them with the testimony of his neighbours.

1 Hen. 7 7 A Constable may commit any that he shall find in adultery or fornication, taking company with him to bear witness; and where he hath arrested any, or hath in his custody any that ought to be carried to Goal, he may raise sufficient strength for his safe carriage or in the interim commit to custody, or to the Goal, and the Goaler shall have no fee at his reception.

When

When a Warrant shal be di- 27 Henry
rect'd to the Constable, or any 7 39
other inferiour Officer under
him, he must use all expediti-
on and security for his appre-
hension, requiring him in the
Kings name to go with him;
and if he shall deny, he may
forthwith commit him to
prison, and resisting or ma-
king an attempt to escape,
may justifie the beating of
him; and if he is willing to
go, he may chuse what Ju-
stice he will go before; but
in case it be grounded upon
a Writ of *Supplicavit*, the
Delinquent is compellable
to go before that Justice from
whom the Warrant came,
upon which the *Supplicavit*
is grounded, and if he refu-
seth,

seth, he may instantly carry him to the Goal; and if the party goeth before some other Justice of Peace, and puts in bayl in some of the Courts at *Westminster*, whereupon he hath a *Supersedeas*, the Constable or inferiour Officer must presently discharge him, keeping the *Supersedeas*, in case he be questioned by the Justice from whom the Warrant issued.

The 21. *Jac.* 8. mentions all *Supersedeases* to be void, unless the process of the Peace or good behaviour, whereupon such *Supersedeas* is grounded, be granted upon motion in Court, with able Sureties, to appear to the

the Judges of the ſame Court, upon oath to be aſſeſſed at five pounds land, or ten pounds goods in the Subſidy-book; the oaths, and names, and places of ſuch Sureties ſhall be entred, and remain of Record in the ſame Court, unleſs it appears that the Judges, from whence the *Superſedeas* iſſued, doth deſire ſuch *Superſedeas*, *bona fide*, by ſome party grieved in Court from whence it came.

A Conſtable muſt take ſpecial care, having arreſted any man, that he doth not wittingly or negligently let him eſcape; look what offence the party eſcaping is culpable of, the ſame is the Conſtable

Constable or inferiour Officer that apprehends him; and it lyes in the power of the Judges to assess what fine in their discretion they think fit; and if the offence be hainous, to the value of their goods.

11 Henry 4. 24 Stanf. 35

Physitians

In *London* the Constables ought to be assistant to the Colledge of Physitians within seven miles thereof, for the due execution of such Statutes as do concern Physitians, Apothecaries and Chirurgions, as you may read in the Statutes of 14. *Hen.* 8. *cap.* 4, 5. 23. *Hen.* 8. 1.

A Constable may arrest any Purveyour that shall take any thing from any of the Kings Subjects, (unless it be

be for the Kings houſhold) and if he neglect his office, he forfeits twenty pounds; neither can he take any thing of any perſon, but by the delivery of the Mayor, Bayliffe, Conſtable, or other ſuch Officer of the place from whence the thing is taken. Purvyeour 23 Hen 8. 3. 28 Hen. 8. ca. 1.

Where any ſhall take any thing for the Kings houſe, it muſt be done by Tailes, or Indentures ſealed between the Owner and the Taker in the preſence of the Conſtable or ſome other Officer, and the Owner to be ſatisfied for it, 36. *Edw.* 3. *ca.* 1.

No Taker ſhall take any kind of proviſions whatſoever without a Commiſſion, and a blank for the County

in which the said several things are taken, and the prizes thereof shall be written,

1, & 2, Phil. & Mar. c 9. to which the Constable or other Officer shall put his hand and seal, and make a breviate thereof in writing,

20 Edw 3. cap. 1. containing the provision so taken, upon pain of an hundred Marks, to give it the Constable or other Officer, to deliver it to the Justices at the next Quarter-Sessions.

20 Hen. 6. cap 8. If a Purveyour shall seize any thing to the Kings use, not exceeding forty shillings, and shall not pay ready money for it, the owner of the goods taken may retain them; the Constable or other inferiour Officer, being required,

required, ought to aid and assist the party, whose goods are taken, upon the penalty of the forfeiture of double the value.

Every Offender that shall be committed to the common Goale, his commitment shall be at his own charge, his goods shall be sold, and the overplus paid to him; if no goods, a tax shall be made by the Constable, and Church-wardens, and two or three other of the Inhabitants of the Parish where the Offender is taken: which being allowed by a Justice of Peace, if any that be taxed refuse to pay, by warrant from the Justice, the Constable or other Officer may di-

Concerning the conveying of offenders to Prison.

1 Jac. 2. 13 Jac. 10.

ſtrain and ſell the goods, rendring the overplus.

Beggars, Rogues

Concerning the executing of the Statute 7. *Jac.* 4. againſt Vagabonds and Rogues, the Juſtices are to aſſemble twice a year; if occaſion be, oftener; and five dayes before the Juſtices may command the Conſtables and other inferiour Officers of all the Hundreds, Tythings and Pariſhes, to ſearch for ſuch perſons, or any other ſuſpected, within their Juriſdictions and Limits, and ſuch as ſhall be found, bring to the ſaid Juſtices; if upon examination they ſhall be found of a looſe and idle life, by warrant they ſhall be ſent to the Houſe of correction, there to be

be punished, and set on work; and the Constables must give an account under the hand of the Minister of the Parish, what dissolute persons they have punished, or sent to the House of correction; and if they neglect their duty, the Justices shall fine them, not exceeding forty shillings.

Prisoners

The Church-wardens of every Parish shall levy money for the relief of the Goal Prisoners, upon the penalty of five pounds to be paid every quarter to the High Constables; and they must pay of the same at the next Quarter-sessions to the Receiver that shall be appointed by the Justices at their Sessions, upon the

like penalty of five pounds.

High Constables ought to present to the Justices the defaults of Watches, and the Kings Highwayes, that there be no ditches or bushes within two hundred foot on every side of the Highwayes; and likewise if any shall lodge Strangers for whom they will not answer; by the Statute of *Winton.* and 13. *Edw.* 1.

King's-Bench & Marshalsey.

Upon pain of forty shillings, the High Constable must at every Quarter-sessions pay the money for maimed Souldiers, and likewise such moneys to one of the Treasurers of the Shire, as the Church-wardens have paid to him for the Prisoners of

of the Marshalsey and Kings-Bench, upon pain of twenty shillings, 43. *Eliz.* 3. 1. *Jac.* 25.

All popish Recusants shall be presented by the High Constables or Church-wardens at the Quarter-sessions, that come not to Church monthly, and the names of their children that are nine years old and upwards, living with their Parents, and the names of their servants, upon the penalty of twenty shillings for every default: and if they be indicted and convicted, the Constable shall have out of their goods forty shillings. Recusant

A Constable may compel any Inn-keeper or Victualer Inhold

to lodge any Traveller or Stranger, by the Statute 5. *Edw.* 4. 3. 3. *Car.* 1.

Alehouses

By the 3. *Car.* 3. All that keep common Ale-houſes, that ſell without Licence, ſhall forfeit twenty ſhillings, which penalty, after warrant from the Mayor or Juſtices, ſhall be levyed by the Conſtables where the offence ſhall be committed, to the uſe of the poor of the ſame Pariſh by way of Diſtreſſe, and in default of payment to be ſold within 3. dayes, rendring the overplus: It ſhall be a conviction if in the view of ſuch Maior, or Juſtice, confeſſion, or upon the Oath of 2. Witneſſes, which the Juſtices ſhall adminiſter, and if the

the offendor have not goods, or pay not the penalty within six dayes, the Justices may commit such offendor to the Constable to be Whipped; and if the Constable or Inferiour Officer shall not execute the punishment, he shall be committed to the Goale, untill the offendor be punished as aforesaid, or untill the Constable shall have paid for the neglect of his duty forty shillings, to the use of the poor of the Parish.

Servants that are retained in Husbandry, must be according to the Statute 5. *Eliz. cap.* 4. after such retainer, shall not depart till their time is expired, or have a Testimonial under the

Servant

hand of the Constable, or other Officer, with two of the Inhabitants of the Parish where they last served; and such Testimonial shall be dated by the Minister, taking two pence for the Registring; and if he be retained in any other service without such Testimonial, he shall be imprisoned till he procure one; if he get none within twelve dayes next after his imprisonment, he shall be Whipped as a Vagabond.

Labourers. All Artificers or Mechanical Tradesmen the Constable shall set on work in time of Corn or Hay Harvest, as are fit to labour by the day; and such as shall refuse, such Officer may imprison in the stocks

stocks two dayes and one night, upon the penalty of fourty shillings.

The Statute 2, & 3. *Phil.* & *Mar.* and 5. *Eliz.* 13. enables the Constables or other Officers, with the Churchwardens, yearly upon *Tuesday* and *Wednesday* in *Easter* week, to call the Parish together, and to elect two honest men of the Parish to be Surveyors of the Highwayes, for the repair of High-wayes leading to any Market Town, and to appoint six dayes for the repair of those High-wayes before *Midsomer* next ensuing, and to give notice the next *Sunday* after *Easter* six dayes, and by the Statutes above recited, Highways

recited, must have one part of the Estate indented, and may call the Constable to an accompt for the forfeitures, for not amending the Highwayes, and may levy the same by Distresse, and sell the Distresse, returning the overplus, according to the Statute 18. *Eliz. cap.* 10. And if the Surveyors shall not have levyed and imployed the same within a year after the offence committed, shall render an accompt before two Justices of Peace.

By the Statute 18. *Eliz.* 7. Constables may, or any inferiour minister, whip breakers of Hedges, and robbers of Orchards and Gardens, stealers of Corn and Wood,

as

as be committed to him by the Justice, and if they neglect their duty herein, the Justice may commit them to the common Goale till it be performed.

Plague

Every Constable by the Statute 1. *Jac.* 31. that neglects thier Office in the levying money, as they are appointed by the Justices, or other head Officers of Towns incorporated, for the relief of the poor infected with the Plague, as it hath been Taxed, forfeits for every offence twenty shillings, to the use of the poor infected; and a Constable or other Officer, if the infection be out of the Town Corporate, Priviledged Place, or

Market

Market Town, may command persons infected to keep their houses; and if the persons will wilfully go abroad, it is lawfull for the Watchmen with violence to enforce them; and if any person that is so infected, or having a sore running upon him, go abroad, for the said offence he shall be punished as a Vagabond, by the Statute 39. *Eliz.* 4. and to be bound to the good behaviour twelve months.

Nets, and Setting-Dogs.

The Statute of 7. *Jac.* 11. does give power to Constables and other head Officers, being warranted by two Justices, to search the houses of persons suspected, except 40. *l. per annum* of inheritance,

tance, or worth 400. *l.* in goods, for Setting-Dogs, or that keep Nets to take Pheasants and Partridges, and may take their Dogs, and cut their Nets.

The Statute of the 8. *Hen.* 6. *cap.* 5. commands that there be in every City, Borough, and Market Town, Weights and Measures sealed, at which the Inhabitants may freely weigh. 11. *Hen.* 7. 4. Weights and Measures.

Such Merchandize shall be forfeited of any Wools, or other Merchandize that shall be shipped in any suspected place adjoyning to the water, if there be not Indentures made between the owner, the Mayor, or Constable Merchandize.

stable of that place, 14. *Hen.* 6. 5.

Every Mayor, Sheriff, Bayliff, Constable, or any other Minister of Justice within any of their Jurisdictions or limits, upon the pain of fourty shillings for every default, ought to search once every month at the least, the places where any unlawfull Games shall be used, and may arrest and imprison both the Keepers and the Gamesters; and if any of the Officers aforesaid shall know of any Tradesman whatsoever, Mariner, Fisher-man, or Water-man, that doth play at Tables, Dice, Cards, Tennis, Quoiting, Logatings, or any other unlawfull

unlawfull Game out of Christmass, or out of their Masters house in the Christmass, unlesse by the Masters license, that hath a 10c. *l. per annum*, then such Officers may commit them to Ward, till he be bound to the King in such a sum as the Officer shall think fit, not to use the same again. 23. *Hen.* 8. 3.

Bridges. By the Statute 21. *Hen.* 8. 3. four Justices are authorized to make a Tax of money for the repair of any decayed Bridge in the High-way; and this must be made by the Constable, or two of the sufficientest Inhabitants of the Parish.

Vessels. The 23. *Hen.* 8. 4. gives power to all Mayors, Sheriffs,

riffs, Bayliffs, and Constable
(where no Wardens
Coopers be) to search
view, and gage Barrell
Kilderkins, Firkins, and oth
Vessels to be made there, t
have the advantage as t
Wardens of Coopers in t
City of *London* hath.

Making Malt. The 27. *Eliz. cap.* 14. do
enable the Constables of
Boroughs, or Market Tow
to view, search, and surv
all such Malt, to be made
sold; and if any made at
time (except in *June*, J
and *August*) but it sh
have at the least three wee
in the fat floor steeping, a
sufficient drying thereof
the months aforesaid, seve
teen dayes at the least; a

if any fold that is good mingled with bad, or made of Mow-burnt Barley, or ſpired, or not ſufficiently well trodden, rubbed, or fanned, where half a peck of duſt, or more may be fanned out of one Quarter, then may the Conſtable, with the advice of one Juſtice of Peace of the ſame County, cauſe the Malt to be ſold to ſuch perſons at reaſonable prices, under the common price of the Market, as to his diſcretion ſhall ſeem meet.

The 13. *Eliz.* 2. and 3. puts the power in the Conſtable and Church-wardens of each pariſh, if the pariſhioners diſagree, to Rate and and allot within their pariſh, their

County ſtock.

their Assessment for the Shire-stocke, wherewith the parish was charged at the quarter Sessions, and may levy the same, upon any of the parishoners by distress & sale of his goods, restoring the overplus to him.

Tippling

By the 21. *Jac.* 7. all Constables and Church-warden shall in their Oaths be charged to present the offence against the statute, 1 *Jac.* 9. Of all Inkeepers and Ale-house-keepers that suffer any to continue Tippling in their houses (except laboring men in dinner time, or lodger there, during their work, or upon sufficient grounds to be allowed by two Justices) forfeits ten shillings to the poor

of

of the parish; or that shall vende or sell less then a full quart of the best Ale or Beer for a penny, forfeits twenty shillings to the said use, the offences viewed by the Mayor, Bayliff or Justice in their several limits, or proved by the Oath of two witnesses, and according to the 21. *Jac.* 1. one witness or his own Oath is sufficient to convict any; penalty is to be levied by the Constables or Churchwardens of the parish where the offences are done; in default of payment within six dayes, the distresse to be apprized and sold, and the overplus restored to the party, upon pain of fourty shillings to the use of the poor,

if

if the duty be neglected.

Victualing houses

The 1. *Jac.* 29. speaks the all Justices of Peace, Mayors Bayliffs, Head-officers, and Constables, in Lent-time may enter into all houses for Victualing, and where any flesh shall be suspected to be dressed, and finding any dressed in Lent-time, or on Fish-dayes, (except provided for Ships, or killed three dayes before Easter) may seize the same as forfeited and give it to the poor.

Prelentment of Recusants

In the 3. *Jac.* 4. the Statute enables Constables and Church-wardens to be present once every year at the Quarter Sessions, to present the monthly absence of Recusants from Church, and

the

their Childrens names, nine years old and upwards, living with their Parents, with their Servants, and in default thereof, forfeits twenty shillings; and if any of them be indicted and convicted, (not before convicted) shall have fourty shillings of the Recusants goods.

Sea-fish.

The 3. *Jac.* 12. instructs the Constables and Churchwardens of all Market Towns, Parishes, and Liberties, where any offence is committed about the erecting new Wears along the Seashore, or in any Harbour, Haven, or Creek, for the destruction of any Spawn or Sea-fish, in any Weare, or other Engine, within five miles of

of the mouth of any Haven, or with fishing with any Hay-net, or Drag-net, under three inches meash, may levy the forfeiture by distresse, or sale of the offendors goods, returning the overplus.

Apprenti. ces

The 7. *Jac.* 3. enjoyns the Parson or Vicar of all Towns and Parishes, not incorporate, with the Constables and Church-wardens, Collectors, with the Over-seers for the poor, concerning money given for binding Apprentices of the poors Children within their Parishes, and they have the placing of them; and to give such monies with them as they shall think fit, according to the will of the donor; and if they

they make default, then every one so offending forfeits three pound: and the Master, Mistris, or Dame of such Apprentices shall be bound with one or two sufficient Sureties in double the summ they have received with the Apprentices to the Parson, Vicar, &c. to repay the money so received at seven years end, or within three moneths next after. And if the Apprentice, Master or Mistris happen to die within the term, then within one year next after such death, the Parson, Vicar or Constable, shall put forth such moneys within three moneths after their receipt; and if there be not fit per-

ſons to be bound in the Towns and Pariſhes, then in the next Pariſhes adjoyning the pooreſt children may be placed by the diſcretion of the Parſon, *&c.* And that no Apprentice be above fifteen years of age to be bound; and the Parſon, Vicar, Conſtable, *&c.* ſhall every year in Eaſter-week, or within a moneth give up his account before four, three or two Juſtices of the peace inhabiting in or next to the ſaid Towns and Pariſhes, for all ſuch moneys as they have imployed in binding of Apprentices; and of all Bonds and Obligations for the payment thereof: and the moneys remaining in their hands

hands, they are at such accounts or ten days after to deliver it to their Successors, or such as are in their places, with the bonds, and moneys as they have in their hands not imployed.

cursing and swearing.

The 21, *Jac.* 29. doth enable all officers, whether Justices of peace, Majors, Bailiffs, Constables, &c. where any shall swear or curse in the hearing of any of the aforesaid Officers, or shall by two witnesses, or their own confession before any Officer where the offence is committed, be convinced, by this Act to minister an Oath; the offendor for every offence shall pay one shilling to

the use of the poor of the said parish; and it is warranted by this Statute, that the Constables, Church-wardens and Overseers may levy such summs of money as shall be forfeited by distress or sale of the offendors Goods, rendring the overplus; and if he have no Goods, and be above the age of 12 years, he shall be set in the Stocks 3 hours; if under the said age, and shall not instantly pay the 12d. then by a warrant from the Justice or head officer, &c. shal be whipped by the Constable, Parent or Master, in his presence; all offences against this Statute shall be done within twenty days after

after the offence committed.

By the 1 *Car.* 1. there shall be no meetings or assemblys of the people out of their own parishes on the Lords day, for any sports or pastimes whatsoever, as Bear-baitings, Bull-baitings or other unlawful sports or pastimes; if any offend herein, the forfeiture is 3s. 4d. to the use of the poor of the said parish where the offence is committed; it is a sufficient conviction if it be done in the presence of any officer, or confession of the offendor or one witness or more upon oath: which the said Justice or any chief officer by this Act is authorized to administer;

Prophaning the Sabbath.

ter, and if any of the said officers find any person offending, by warrant under his hand and seale to the Constables or Church-wardens of the Parish where the offence is done, to levy the penalty by distress or sale of Goods, rendring the overplus to the offendor; in default of distress to put the offendor in the Stocks 3 hours; the offendor must be prosecuted within one moneth.

Carrier or waggoner.

The 3 *Car.* 1. punisheth all Carriers, Waggoners, Carter, Wainman, or Drover that travels on the Lords day, with the forfeiture of 20s. and all Butchers that kill or sell any victuals upon that day lose 6s. 8d. The

summs

ſumms and penalties after conviction before a Juſtice of peace, or any other head-officer by warrant from the Juſtice, may be levyed by the Conſtable or Church-wardens to the uſe of the poor where the offence is committed, by diſtreſs and ſale of Goods, rendring the overplus; here the conviction ſhall be by view of the Juſtice or other head-officer, confeſſion, or upon oath of two or more witneſſes; the offenee to be proſecuted within ſix moneths.

The 21 *Jac.* 7. ſays, all perſons that ſhall be drunk, it ſhall be a conviction upon the view of any Magiſtrate, confeſſion, or one witneſſe Drunkenneſſe.

proving the ſame; the forfeiture is 5s. to be paid within one week after the offence committed to the Churchwardens of the Pariſh to the uſe of the poor, in default of payment to be levyed by diſtreſs or ſale of the offendors Goods, by warrant from the Juſtice before whom the conviction was; if the offendor is not able, to be ſet in the Stocks 6 hours; and if the Conſtable or other officer neglect his duty herein in puniſhing, or levying the forfeiture according to the Act, he forfeits 10s. to the poors uſe, where the offence is committed, to be levyed by diſtreſs or ſail of Goods, rendring the overplus to the offendor;

fenders: And all persons that shall continue tipling in any Inn, Victualling-house, or Ale-house in the same City, Town or Village where he inhabits, excepting handy-crafts-men and travellers, upon working days, one hour at dinner, labourers and workmen, which for following their work, sojourn or lodge in such houses, other then for urgent occasions allowed by two Justices, and the same be seen by any Major, or other head officer, or Justice of peace within their limits, or by oath of two witnesses, but by the statute of 2 Jac. 5. the Magistrates view, his own confession, or one witnesse is sufficient

ficient to convict him; the forfeiture is 3s. 4d. to the poors use where the offence is committed, to be levyed as aforesaid; and if the offendor be not able to pay, to sit four hours in the Stocks; all these offences are to be presented by the Constables, or Church-wardens before the Justices of Assize in their circuits, Justices of peace in Sessions, Maiors, Bailiffs, and other head-officers of Cityes and Towns corporate, that have power to inquire of trespasses and in Court Leets they that shall be convict the second time, shall be bound with two Sureties in ten pound, to be from thence of good behaviour, but none

shall

shall be punished by this Statute, unless; he be presented, indicted, or convicted within 6 moneths after the offence committed; and the oath of him that confesseth the offence, shall be a conviction against any that offends at the same time.

The Constables Oath.

YOu shall well and truly serve the Kings Majestie in the office of a Constable, and shall see the Kings peace to be well and truly kept to the utmost of your power; you shall arrest all such persons as in your presence shall ride or goe armed offensively, or shall commit or make

make any riot, affray, or other breach of the peace; you shall doe your best endeavour upon complaint to you made, to apprehend all Felons, Barretors, or Rioters, or persons riotously assembled; and if any such offendors shall make resistance with force, you shall levy Hue and Cry, and shall pursue them untill they be taken; you shall do your best indeavour that the watch in your Town be duly kept, and that Hue and Cry be duly pursued according to the Statute; and that the Statute made for punishing vagabonds, rogues, and nightwalkers, and such other idle persons, comming within your liberties, be duly put in

execution

execution; you shall have a watchful eye to such persons as shall manage or keep any common house or place where unlawful games are used, or such as shall frequent such places contrary to the Statute; And you shall have a care for the maintaining of Archery. At your Assizes, Sessions or Leet, you shall present all the offences contrary to the Statutes, made and provided for the restraint of inordinate haunting and tipling in Inns, Taverns, and Alehouses, and other victualing places for the repressing of drunkennesse and prophane swearing; you shall true presentment make of all blood-shedding, affrays, outcryes,

cryes, reſcues or other offences committed or done againſt the Kings peace within your limits; you ſhall well and duly execute all Precepts and Warrants to you directed from the Iuſtices of peace and others who have authority in this County; you ſhall well and truly according to your knowledge, power and ability do and execute all other things belonging to the office of a Conſtable, ſo long as you ſhall continue in the ſaid office: So help you God.

Who be Rogues by the Statute.

Rogues. ALL perſons are Rogues above the age of 7 years that ſhal call himſelf a Scholar,

lar and go about a begging; Seafaring-men not suffering Shipwrack, or having a Justices testimonial of or neer the place where he landed, if he beggs or exceeds the time of his testimonial; all that begs or uses any subtil craft, or unlawful games or playes; that pretends skill in Physiognomy and Palmestry, foretells destinyes or fortunes, wandring persons that call themselves a Proctor, Procuror, Patent-gatherer, or Collector for any Goal or Hospital, all Fencers, Bearwards, and Minstrels; all Juglers, Tinkers, Pedlers, Petty-chapmen, or Glass-men that wander abroad; all common labou-

rers wandring abroad, not having means to maintain themselves, being able of body to work, and refuse to work for lawful wages; all freed from prison and begs for Fees; all that pretend loss by fire; all (not being a Felon) that call themselves *Egyptians*. By the Statute 1 *Jac.* 31. such as goe abroad wilfully, being infected with the Plague, and are commanded to keep their houses, although no sore about them; by the Statute of 39 *Eliz.* 4. they likewise are deemed and taken to be incorrigible Rogues: the Constables and Tythingmen of all Hundreds and Parishes shall up-

on

on the apprehending of such Rogues, with the aid of the Minister and one of the Parish, appoint such Rogues to be whipped untill his body be bloody, and send him from Parish to Parish by the officers to the place where he was born, if it may be known by his confession; if not, then to the Parish where he or she last dwelt by the space of a year; if that cannot be known, to the place where they passed last without punishment; and after such whipping, such Rogues shall have a testimonial sealed and subscribed by the Constable or other Officer with the Minister, or any two of them; the substance

whereof

whereof shall be Registred by the Minister in a book upon pain of 5:

The manner of the Testimonial.

N. W. *a sturdy Rogue of middle stature, aged* 16 *years, describing the private marks in his face, and the manner of his habit, with the place of his birth and County, and the day of the moneth he was taken begging, and was there lawfully whipped; and is to travel the direct way, naming the place, and is allowed* 3 *days for his going home, and no more, at his peril; sealed and subscribed the day and year above written.*

By us A. B. *Minister.*
W. A. *Constable.*
W. E. *Parishoner.*

And

And such Rogues that fulfils not the contents of his Testimonials, then he or she shall be whipped in all places where default is made, till they repair to the place so appointed: And this Testimonial must be carried with them, and it is required to put down the several Marks on the bodys of such Rogues, that the Officers may not be deceived: And if he will not be reformed, any two Justices of the peace may commit him to the House of Correction, one being of the Quorum.

The Statute 1 *Jac.* 7. commands all persons to apprehend such Rogues or vagabonds, as shall come to their Houses

Houſes to beg Almes, and them to carry to the next Conſtable or Tythingman, upon the penalty of twenty ſhillings for every default.

All Conſtables, Head-borrows and Tythingmen that ſhall make any default in the executing of their Offices, ſhall loſe for every default ten ſhillings. And by the Statute 1 Jac. 7. the Conſtable or Tythingman forfeits twenty ſhillings. And any other perſon that ſhall do ſhall be any Officer in the execution of his Office againſt Rogues, ſhal forfeit for every default five pound, and be bound to his good behaviour.

All Conſtables and Tythingmen,

thingmen, shall take and punish all Rogues and Beggars that shall be set a shore here from *Ireland*, *Scotland*, and the *Ile of Man*, till he come to the next Port or Parish, where he was first Landed, upon the forfeiture of ten shillings.

If a Rogue affirms that he was born in such a Town, in such a County, and it appears to the contrary, the Statute then terms him an incorrigible Rogue, and he is to be sent to the House of correction; and if there be no House of correction, then to the Goal until the next Sessions and there to be ordered according to the Statute. If the Husband and

Wife

Wife have a House, and they wander up and down the Country, they must be sent to the Town where the House is; and so must likewise Inmates: and the Wife and Children under seven years must be sent to the Husband; if he be dead, then with the Wife where she was born or dwelt last; and the vagrant Children above seven years of age, must be sent to the place of their birth; and if the vagrant Parents with their Children under seven years old be placed at the place of their birth or last place of their abode, if it shall happen afterwards that their Parents dye there or run away, yet the Children

once

once ſettled muſt there remaine, though they grow to the age of ſeven years; and if the Wife be a vagrant Rogue, they muſt be ſent to the Huſband, though a Servant in another place.

Where any not being Rogues, do travel with their children through any pariſh, if Father or Mother dye or run away, the place is not to keep them where they dye, nor ſend them away, but only in charity, except they become wandring Beggars.

And where the Parents have work, they are to find their Children with their labor; but where there is not ſufficient, the Pariſh muſt bind their Apprentices according

cording to the Statute.

None but vagrants ſhall be put out of the Pariſh where they dwel, nor releived by the Town, except impotent people, but ought to ſet themſelves at work; if they cannot, the overſeers muſt ſet them at work; and all ſuch perſons as be of ability to work, are not to be ſent to their place of birth or laſt dwelling by the ſpace of a year, but to the houſe of correction, according to both the Statutes of the Poor, and Rogues; but if they have any lawful means to live on, though they work not, yet they ſhall not be ſent.

If any Officer ſhall remove any out of the Pariſh, that

ought

ought not to be put out, it is againſt the Statute that is provided for the releif of the poor, and ought to be fined, and if any have been ſo ſent, they are to be ſent back.

Where any if ſent to a Pariſh where he ought, and he is refuſed, whether a ſturdy Rogue or impotent, the forfeiture is five pound; and he that is ſo ſent is to be left to the Church-wardens & Overſeers; and all Rogues muſt be ſent by a Paſport and conveyed from Pariſh to Pariſh, as the ſtatute requires upon the penalty of five pound. And likewiſe where the Officer will not receive a Rogue to convey him to the place where he was born or

laſt dwelt, the forfeiture is five pound.

None may be permitted to beg by the High-wayes, though in their Pariſh, nor to take releif at any mans door, in the ſame Pariſh, unleſs by the appointment of the Overſeers.

In the word Parents is meant a Father or a Grandfather, Mother or Grandmother, being able Perſons; and in the word Children, is any Child or Grand-child; and all Perſons or Vicars may releive the Poor of their Pariſh as well as others that dwel in the Pariſh.

Where any man hath an impropriation of any Tythes, Colamynes or Lands in ma-

nual

nual Occupation, is chargeable; and those that have saleable Woods, where they receive any annual benefit, shall be taxed to all the aforesaid payments; and where there is but one Church-warden, it is sufficient to charge any person with the Overseers.

The Ministers Office.

THe Minister or Curate of every Parish ought to Register the Testimonial of every Servant at his departure out of his service, and two pence is allowed for the Registring.

He is to ayde the Constable or Tythingman in the

whipping of all Rogues, and to Regiſter them, and to ſend a Teſtimonial with the Rogue after he is whipped, upon the forfeiture of five ſhillings for every default.

Licence to Eat Fleſh.

He hath power to give Licence to any that is ſick during the time of his ſickneſs, to eat Fleſh upon daies prohibited, and ſhall have four pence for Regiſtring the ſame in the Church book, if the parties ſickneſs continues above nine dayes after the Licence granted: But the Statute 1 *Jac.* 29. that no ſick perſon by vertue of 5. *Eliz.* 5. is warranted to eat any Butchers meat in Lent or any other dayes prohibited, but the ſick perſon may in-

curre

curre the penalty of the said Statute.

If any person shall after notice given by the Minister, Curate or Church-wardens, maintain or keep in his House or anywhere under his tuition any person that wilfully refuseth to come to Church, forfeits ten pound for every month; and by 35 *Elez.* 1. the Minister or Curat of the Parish may require any person within three months after his conviction to make publick confession and submission in the time of Divine Service on a Sunday or Holy day. Comming to Church.

The 35 *Eliz.* 5. gives power to the Minister or Curate of the Parish and to the Con-

stable and Tythingman of any Town, to which any Recusant is sent, to enter the same into a book to be kept for the purpose, and shall certifie the same at the next quarter Session for that County.

Solemnizing the 5 of Novemb.

By the Statute of the 3. of King *Jac.* all Ministers after morning Prayer or Preaching shal publickly and distinctly read the said Statute concerning the miraculous delivery of the King and State from the Pouder Treason, giving to Almighty God a Sollemn Thanksgiving annually in all Churches within his Majesties Dominions.

The

The Church-Wardens Duty.

BY the Statute 12 *Hen.* 7. *infine* Church-wardens by the common Law of *England* are taken by way of favor to the Church to divers purposes and as it were for a Corporation, being enabled to take Moneys, Goods and Chattels & may Sue and be Sued for them to the use and profits of the Parish, so that any man may in the time of his Life, or by his last Will, give and bequeath Moneys, or other moveable goods, either to the Churchwardens or to the Parishioners of a Parish for the separation of the Church, or for the buying

Their Office by the common Law.

of Books, Communion Cups or other Ornaments for the Church, and the Law so favorably doth take it that its not materially needful to express it in apt words or writing; as for example, if one give a Bell and hang it up in the Steeple, or make a Pew in the Church, and makes no word or writing thereof, yet it is by this Dedicated and given to the Church: *Lib. intra. fol.* 570. 11 *Hen.* 4. 12. 8 *Hen.* 7. 12.

The Churchwardens may maintain an appeal of Robbery, against him that steals any thing out of the Church, being once in the possession thereof, or an action of trespasse, as you may

read 37. *Hen.* 6. 30. *and* 34. 11. *Hen.* 4. 12. 8. *Edw.* 4. 16. and if the Parſon or Vicar ſhall take any of the Goods belonging to the Church, the Church-wardens may bring their action and recover dammage to the uſe of the Pariſh; and if thoſe Church-wardens dye before the action be brought, or the Goods for which they ſue be recovered, their ſucceſſors may bring their Action.

And if any of the Church-wardens do waſte the Goods of the Church, the Pariſh may put out thoſe and chooſe new, and the new Church-wardens may bring an action of Accompt againſt the old, and compell them

to make satisfaction to the parish for the wrong they have sustained during their office; and although the custom of some parishes is to continue them, some one year, some two years, some three years; yet upon any default in them, the parishioners may at any time when they please proceed to a new election, and call them to an account; yet shall the former Church-wardens have an allowance of all such summs of money as they have needfully expended upon the Church, or upon meet and lawful ornaments; and this they are compellable to doe by the Laws Ecclesiasticall; and they shall have allowance

ance of moneys upon their Accompts that they have paid for the relief of prisoners in the common Goal, as you may see in the Statute 14. *Eliz. cap.* 5. and of any other thing the Law charges them to do; but in Lands or the profits thereof they must not meddle at all; as if the walls, windows, or doors of the Church be broken, or trees in the Church-yard be cut down, or Grass eaten up; but this belongs properly to the Parson or Vicar, as you may see in the Statute 11 *Hen.* 3. 13. 12 *Hen.* 7. 77. 13 *Hen.* 7. 9.

All persons shall repair to their parish-Church, except they shall be hindred by sickness

ſickneſſe, or any other lawful excuſe, or to ſome other place where the Common-Prayer is uſed upon Sundays or other days which are uſually to be kept Holy, and ſhall then and there ſit orderly during the time of Common-Prayer and Preaching, upon pain to be puniſhed according to the Churches tenure and upon the forfeiture of twelve pence for every perſon ſo offending, to be by the Church-wardens levyed to the poors uſe of their Goods, Lands, and Tenements, *vid.* 1. *Eliz. cap.* 2.

high-ways

The Conſtables & Church-wardens of all Pariſhes ſhall every year on Tueſday and Wednesday in Eaſter-week call

call the Parishioners together choosing then two honest surveyors of the High-ways of the said Parish for the year ensuing which leads to any Market-town; if they refuse the execution of the office, they shall forfeit twenty shillings; the Constables and Church-wardens shall then name six days for the amendment of the said ways before Midsummer next, giving knowledge of the said six days the next Sunday after Easter, and shall call the Constable to an account, having one part of the Estreats indented.

Where any shall eat flesh, either in Lent or any other days observed for Fish-days, he forfeits

forfeits three pound for every offence, or shall suffer three moneths imprisonment; and every person in whose house any offence shall be done, being privy, and having knowledge thereof, not disclosing the same to an officer that hath power to punish, shall forfeit for every offence forty shillings; the third part of all the forfeits shall be to the use of the poor of the Parish where the offence is committed; after conviction to be levyed by the Church-wardens, as you may read 5 *Eliz. cap.* 5.

Licence to eat flesh.

All Licences that are to be given by the Bishop of the diocess, or by the parson, vicar or Curate in case of sickness, ought

ought to be Registred, if the sickneſſe continue above 8 days after it is granted, in the Church-Book, with the privity of one of the Church-wardens there, and the party that is Licenced ſhall give four pence for it. *vid.* 5 *Eliz.* 5. the duties of Miniſters before.

A Juſtice of Peace may appoint the Church-wardens, and 4, 3, or 2 of the Pariſh to be overſeers of the poor; and they may by conſent of the Major part of them, take order for the ſetting married or unmarried perſons on work, that have no means or ordinary trade to live by; and the Children of ſuch Parents as ſhall be unable to maintain Poor,

maintain them, and may set up any Trade or Mystery for that purpose, and may Tax as well Inhabitants as Occupiers of Lands in the parish to pay weekly such summs of moneys as they shall think meet for a stock for the relief of the impotent poor there, and for to put out Apprentices of such Children; and they to whom they shall be put, shall take, receive, and keep them as apprentices, and may do any thing concerning the premises, as they shall think meet. *vid.* 1. *Jac.* 51. 2. *Jac.* 28. 3 *Car.* 4.

The Churh-wardens and Overseers shall render an account before two Justices of

of Peace of their Money, ſtock and other things concerning their Office, and ſuch Moneys as ſhall be remayning in their hands, to the new ones that are choſen in their places, upon the forfeiture of twenty ſhillings, for every monthly default, without cauſe to be ſhewn and allowed by two Juſtices.

The Church-wardens and Overſeers are impowred by the ſaid Statute, by warrant under two Juſtices hands to levy all taxations by diſtreſs and ſale of their goods, as ſhall be found in default, rendring the overplus to the party, and may with the Licence of the Lord of the

Mannor

Manner erect convenient houſes, for the Poor of their Pariſh, at their general charges; and when the yearly Stock is aſſeſſed by the Juſtices at the quarter Seſſions, it ſhall be by the agreement of all the Pariſh; and in default, by the Church-warden and Conſtables of the Pariſh or the Major part of them, who may levy the ſame by diſtreſs and ſale of the goods of ſuch as refuſe to pay their part, rendering the overplus to the owners; & the Church-wardens or Overſeers muſt pay it to the high Conſtable within whoſe limit the Pariſh is ſcituate ten dayes before the end of every quarter Seſſions, ſuch Moneys as the Pa-

riſh

rish ought to pay for the releif of the prison in the Marshallsey and Kings Bench, upon the pain of ten shillings for every default of payment.

Souldiers Moneys.

By the 43 *Eliz. ca.* 3. if the Parishioners agree not to the rate for the maintenance of disabled Souldiers, the Church-wardens and Constables of the Parish, or the Major part of them may levy such rates by distress and sale of their Goods, of any that refuse to pay, rendring the overplus; which must be collected and paid over to the High Constable, within whose Hundred the Parish is;& all such summs of moneys as are collected ten days

days before every Quarter-Sessions of the peace upon the penalty of twenty shillings for every default.

The Statute of 1 *Jac. cap.* 9. says, that if Constables and Church-wardens neglect their office in punishing Inn-keepers, Victuallers, and Ale-houses by the space of twenty days in certifying their defaults, they shall forfeit twenty shillings to the poors use.

The Satute of 1 *Jac. cap.* 27. inhibits all persons to keep any Grey-hound for the coursing of any Hare or Deer, or any setting Dogs or Nets for the taking of any Phesants or Partridges; the Churchwardens have power

by

by this Act where the offence is committed, to receive to the use of the poor of the Parish forty shillings. 3 *Jac. ca.* 4. enables the Church-wardens and Constables of all Towns and Parishes to present in the quarter Sessions or at the Assizes, the monthly absence of Recusants from Church; & they are to certifie the names of their Children above nine years old, and the names of their Servants, upon the forfeiture of twenty shillings; and if upon the Inditment they be convicted, they shall have forty shillings out of their goods; and the Church-wardens may by Warrant from one Justice of Peace, levy to the use of the po r,

the

the offendors Goods, by distress or sale, rendring the overplus; and the forfeiture is twelve pence for every default in not comming to Church every Snnday according to the Statute 1 *Eliz. cap.* 2.

Absence from Church.

By the Satute of 1 *Eliz. cap.* 2. the Church-wardens may levy to the use of the poor, where the default is, twelve pence; by warrant from one Justice of peace by sale of the Goods of the offendor, rendring the overplus, for not comming to Church every Sabbath day.

Offeudors co veyed to prison

The Statute of 3 *Jac. cap.* 10. says, that the Constable and Church-wardens with two or three of the Parishioners

pers may make a Tax, where an offendor is committed to prison, and hath not sufficient for his conduction thither.

The Statute of 21 *Jac.* 18, says, the Clothier that makes any cloth that is not good and warrantable by that Statute, forfeits five pound by a warrant from two Justices or more; the Church-wardens and overseers of the poor of the parish where the default is committed, may levy the penalty for every cloth deceitably made, by distress and sale of their Goods, rendring the overplus; the distribution is to the poor of the said Parish; and where no distress is, the offendor

clothing.

offendor shall be committed to the Gaol until payment be made to the Church-warden and overseers, to the use aboveſaid: and they to be accomptable for those moneys, as they are for other moneys which is by them collected for the poor; *vid.* 43 *Eliz. cap.* 3. and by the Statute 21 *Jac. cap.* 18. Two third parts of the forfeitures for want of length, breadth, or weight of Cloths by any other Statute now in force, shall be levyed, distributed, and accounted as the forfeiture aforesaid.

Of

Of Supervisors, Surveyors, and orderers for the High-ways.

BY the Statutes 2 and 3. of *P.* and *M. cap.* 8. 5. *Eliz. cap.* 13. 18. *Eliz. cap.* 18. Every person upon six days appointed for working in the High-ways, that hath a plough-land either in tillage or pasture, in occupation in the same parish, and every other person keeping there a plough or draught, shall find and send at every day and place appointed for the amending of the ways in the Parish aforesaid, one Waine or Cart furnished with Oxen, Horses, or other cattle, Highways.

cattle, with other neceſſarys convenient for that purpoſe, and two able men with the ſame upon forfeiture of te ſhillings; and every Cottager and labourer of the ſaid pariſh that is not a hired ſervant by the year, ſhall labour upon every of the ſaid ſix days: the default of every perſon for every day is twelve pence; and if there ſhall be no need of any of the ſaid carriages, then the perſons that ſhould have ſent them, ſhall ſend to the ſaid work two able men for every carriage ſo ſpared, upon the pain of one ſhilling for every one that ſhall make default: bringing with them all things materials for ſuch ſervice;

vice; and all ſhall work by the ſpace of eight ours, unleſſe they ſhall be other-ways licenſed by the ſaid Superviſors, or any one of them; and it ſhall and may be lawful for any of the Supervisors, or any one of them, according to the 2 and 3 of *P.* and *M.* for the better amendment of the high-ways within the limits of the ſaid pariſh, to give power to any to take and carry away any rubbiſh, or any broken ſtones of any Quarry that ſhall lye within the pariſh, without licence or controlement of the owner or owners, ſo much as in their diſcretion ſhall ſeem meet and neceſſary; and for default of ſuch

Quarries, the Supervisors or Overseers may appoint any to dig gravel or sand in any grounds lying next the highways within the said parish, so much as they shall think meet and necessary for the reparations aforesaid; or any stones, or other stuffe where heretofore they have usually digged.

ouse, rden or chard.

It is provided in the said Act that the Supervisors shall not digg in any Quarry or Quarries, but shall take such rubbish or other materials, fit and useful for the highways, as there shall be found without the licence and commandment of the owners; neither impour any to digg any gravel, sand, of a-

ny

ny other thing, in the houſe, garden, orchard or meddow of any perſon or perſons whatſoever; neither in any incloſed ground, then onely one hole or pit for gravel as afore declared in breadth or length above ten yards at the moſt; and then that every ſuch pit ſo digged, the Superviſor or Superviſors ſhall within one moneth after, cauſe to be filled up with earth at the coſt and charges of the ſaid pariſh, upon the forfeiture of five marks to the owner or owners of the ſoyle.

By the ſtatute 5 *Eliz. ca.* 15. where any water-courſe ſhall be in any ditch or ditches of the high-ways, it Water courſes.

shall and may be lawful for the Supervisor or Supervisors, to turn the same into any mans ground, or soyl in such ways, and manner, as to their discretion shall seem most meet and convenient; and the Supervisor, or Supervisors by force of this Act may within one moneth after any default, present the said offence to the next Justice of peace, upon the forfeiture of forty shillings.

Land in several Parishes.

The 18 *Eliz. cap.* 10. declares that every person or persons, (except such as dwell in the City of *London*) that shall be assessed to any subsidies in Kings books to five pound in Goods, or forty shillings in Lands or above

bove, during the time he ſhall ſtand ſo charged, and being none of the parties ſo charged for the amendment of the high-ways by any other Act, but as a Cottager, ſhall find two able men yearly to labour in the high-ways as is limited and appointed by the ſaid Acts; and all perſons that ſhall uſe or occupie either in tillage or paſture, any plough-land that lies in ſeveral pariſhes, ſhall be chargeable to the ways in the pariſh where he inhabits, as far forth as any perſon having a plough-land in any one pariſh; and every perſon or perſons that ſhall uſe any plow-lands in ſeveral Towns or pariſhes, ſhall find in each

Town or Parish one Cart-wain, Dung-pot or Dragg, furnished for the amendment of the high-ways within the several parishes where the Land lyes, in the same manner as if he were an inhabitant in the said Parish.

Scowring ditches. The 5 of *Eliz.* makes mention, that every person or persons that repaires not or scowrs not his Ditches or Hedges adjoyning to the Highway, or leading to any fair or Market, or cuts down or keeps under his Trees or Bushes growing next the Highways, shall forfeit or lose for every default ten shillings.

And all and every person or persons that shall use any lands

lands next the Highway or leading to any Fayr or Market, that ſcowr not the Diches as oft as need ſhall require, whereby the water may be conveyed from the Highway, over the ground next adjoyning, may paſs over the ground next, upon the forfeiture for every Rod next adjoyning, not cleanſed and ſcoured, twelve pence.

Banks Highwa

If any perſon or perſons that ſhall caſt any ſoyl or make any dung in any Highway leading to any Fayre or Market Town, letting it lye there by the ſpace of ſix monthes to the annoyance of the way, the Inhabitant ſhall forfeit for every load there lying twelve pence. And

where any hath been caſt into the Highway leading to a Fayre or Market Town, ſo that there is a bank between the land Way and Ditch, the Surveyours or workmen appoynted for the amendment of the Highways, are to make Sluces or other devices by their diſcretions to convey the water out of the ſaid way into the Ditch, any law, right, Intereſt, Cuſtome or uſuage to the contrary notwithſtanding.

default Surveyors, Conables or hurchardens y.

The Surveyor, or Surveyors have power by this Statute to levy every ſumm or ſumms of money forfeited within the pariſh, by diſtreſs in the ſame manner as Fines, or Amercements in Court-

Leets

Leets have been uſed; and the money to be imployed upon the high-way that leads to any Fair or Market-town where the offence is committed; if the Surveyors do not levy and imploy it within one year after the offence is committed; that then the ſumms or forfeitures ſhall be levyed by the Conſtables or Church-wardens of the Pariſh where the work ought to be done in the high-way; and that then he or they that ſhall levy any ſuch penalties or forfeitures, ſhall make their account as the afore-menticoned Statutes recite.

The Statute 39 *Eliz.* 2 *ca.* 19. enables the Surveyors within. Ironwo

within the County of *Kent*, *Sussex*, and *Surry*, where the high-ways shall be most annoyed, where the Justices have not assigned in what place or places of the high-ways there shall be carried Gravel, Stone, or Chaulk, to appoint the occupiers of the Iron-works to carry the same, upon the penalty of forty shillings; and the Surveyors shall make demands of all the forfeitures of money to be paid in default of such Carriages; and shall make a true presentment of all such defaults of payment at the next Quarter-Sessions of the County, upon the same penalty of forty shillings.

Of

Of the deſtruction of noyſom Fowl and vermin.

THe Statutes 18 *Eliz. cap.* 15. 14 *Eliz. cap.* 11. 39. *Eliz. cap.* 18. 24. *Hen.* 8. appoints diſtributors, and gives them orders to pay thoſe that ſhall deſtroy any noyſom Fowl or Vermin in manner following; Any perſon that ſhall bring to them any heads of old Crows, Choughs, Pyes, or Rooks, taken within their ſeveral pariſhes: every three heads one penny; for the heads of every ſix young Crows, Pyes or Rooks taken as aforeſaid, one penny; for every ſix eggs of any of any of them,

one

one penny; for every twelve Stares heads one penny; all which shall be kept in some fitting place, and be brought forth once a moneth at least before the Church-wardens and Taxers, or any three of them, and then shall make an account to them in writing what money they have laid forth and paid for such heads and eggs, and for the heads of ravenous birds and vermine, as in the said Acts mentioned; for every Merton, Hawes, Furse-kite, Mold-kite, Buzzard, Cormerant or Ring-tail, two pence; for two eggs of them one penny; every Iron or Osprays-head, four pence, every Woodall, Pye, Jay, Raven,

Raven or Kite one penny, every Kingsfisher one penny, every Bulfinch or Bird that spoiles the buds of Fruite one penny, every Fox or Grey twelve pence, every Fitchew, Polcat, Weasel, Stote, Faire, Badger, Wildcat one penny; every Otter or Hedghog two pence, every three Rats heads or Mice one penny; every Molewarp or Want, an half penny; the head of al the Birds or Vermine last mentioned, the distribution shall pay and give to the bringer of them, for every head taken within their Parish, and shall keep the same to be shewed forth upon their accompt as aforesaid; all which said heads and egges shall be forthwith after

after such accompt made in the presence of the said Churchwardens and Taxers, or of three of them, burned, consumed or cut in sunder.

And if upon accompt that there shall be any Moneys in the hands of any of the distributors, the same shall then be delivered over to such persons as shall be elected and chosen for the year ensuing, by bill indented as aforesaid; provided alwaies that this shall not extend to give any liberty, Licence or authority to any person or persons whatsoever to use or exercise any means or enquire for the destruction of Crowes or Rookes, Choughs, or other Vermine aforesaid in any

place

place or places to the deſtruction or diſturbance of the building or breeding of any kind of Hawkes, Hernes, Egrits, Paupers, Swans or Shovelers, to the hurt and diſtruction of any Doves, Dove-houſes, Deer or Warren or Conies, nor to give or appoint any ſum or ſums of Money to be given, paid or diſtributed to any perſon or perſons of the Heads of any Buzzard, Ringtaile, Herne, Polcat, Fitchew or Stote that ſhall or may be taken in any Warren or ground imployed for Conies, or to the taking of any Stares in Dove-houſes, neither to the deſtruction or bringing of any Kite or Raven killed in any City

or

or Town Corporat or within two miles of the same.

There are two Statutes made in the aide and assistance of Constables and Church-wardens; one 7 *Jac. ca.* 5. the other 21 *Jac. ca.* 5. the sum and effect of both which Statutes are as followeth: The first declares that whereas there are many causeless and contentious suites commenced against Justices of Peace, Mayors of Cities or Bayliffs, of Corporate Towns, Head-burrowes, Constables, Collectors of Subsidies and Fifteens, that have been molested or troubled for the execution of their office, by contentious and ill-disposed persons to their discourage-

courragement in the execution or doing their offices, it is enacted by the said *7 Jac. ca.* 5. that if any Action, Bill or Suite, account on the case, Trespass, Battery or false imprisonment shall be brought after forty dayes next after the end of that Session of Parliament, in any of his Majesties Courts at *Westminster* or elsewhere against any Justice of Peace, Mayor, Bayliff of any City or Town Corporate, Head-burrow, Constable, Tythingman, Collector of subsidy or Fifteens for or concerining any matter or cause by them or any of them done by vertue of their or any of their office or offices, that it shall be lawful to

or

or for any such Justice of Peace, Mayor, Bayliff, Constable or other Officer or officers before named and all others, that in their aide and assistance, or by their commandment shall do any thing touching or concerning his or their Office or Offices, to plead the generel issue that he or they are not guilty, and to give such special matter in evidence to the Jury, that shall try the same, which special matter being pleaded, had been a good and sufficient matter in Law, to have discharged the said defendant or defendants of the trespass, or the other matter laid to his or their charge; and that if the verdit shall pass with the

said

ſaid defendant or defendants in any ſuch actions, or the Plaintiff or Plaintiffs become Nonſuite, or ſuffer any diſcontinuance thereof, that in every ſuch caſe the Juſtice or Juſtices or other Judges, before whom the ſaid matter ſhall be tryed, ſhall by force and vertue of this Act allow unto the defendant or defendants his or their double coſts which he or they ſhall have ſuſtained by reaſon of their wrongful vexation in defence of the ſaid Action or Suite, for which the defendant or defendants ſhal have like remedy as in other caſes where coſts by the Laws of this Realm are given to the defendants. And this Act is to con-

continue for ſeven years, and from thence to the end of the next Parliament after the ſaid Parliament.

The other Statute being 21 *Jac. ca.* 12. declares the afore recited Statute of 7 *Jac. ca.* 5. to be perpetual. And that all Churchwardens and all perſons called Sworn-men, executing the Office of Churchwardens, and all Overſeers of the Poor, and all others which in their ayde and aſſiſtance, or by their commandment ſhall do any thing touching his or their Office or Offices, ſhall hereafter be enabled to receive and have ſuch benefit and help by vertue of the ſaid act to all intents and conſtructi-

ons

ons and propoſes, as if they had been ſpecilly named therein.

And whereas notwithſtanding by the ſaid Statute, the Plaintiff is at liberty to lay his account, which he ſhall bring againſt any Juſtice of Peace or other Officer in any forrain County at his choyce, which hath proved very inconvenient unto ſundry of the Officers and perſons aforeſaid that have been impleaded by ſome contentious and troubleſome perſons in Counties far remote from their places of habitations: It is enacted by this Statute, that if any Action, Bill, Plaint or Suite upon the caſe, Treſpaſs, Battery or falſe Impriſonment

ſonment ſhall be brought after the end of this Seſſion of Parliament againſt any Juſtice of Peace Mayor or Bayliff of Citty or Town, Corporate, Headborrow, Conſtable, Tythingman, Collector of Subſides or Fifteens, Churchwardens and perſons called Swornmen, executing the Office of Churchwardens or Overſeers of the Poor and their deputies or any of them or any other which in their ayde & aſſiſtance, or by their commandment ſhall do any thing touching or concerning his or their Office or Offices for, or concerning any matter, cauſe or thing by them or any of them done by vertue or reaſon of their

or

or any of their Office or Offices: That the said account, Bill, Plaint or Suite shall be laid within the County where the Trespass or fact shall be done and committed, and not elsewhere: And that it shall be lawful to, and for all and every person and persons aforesaid to plead there unto the general issue, that he or they are not guilty and to give in such special matter in evidence to the Jury, which shall trie the same as in and by the said former Act is limited and declared: And that if upon the Tryal of any such Action, Bill, Plaint or Suite, the Plaintiff, or Plaintiffes therein shall not prove to the Jury which

shall trie the same, that the Tresspas, Battery, Imprisonment: or other fact or cause of his, her or their such accounts, Bill, Plaint or Suite was or were had, made, committed: or done within the County where such account, bil, plaint or suite shal be laid: That then in every such case the Jury which shall trie the same, shall find the defendant and defendants in every such Account, Bill, Plaint or Suite not guilty, without having anie regrad or respect to anie evidence given by the Plaintif or Plaintiffs therein touching the Tresspas, Batterie, Imprisonment or other cause, for which the same Account, Bil, Plaint or Suite is or shall be brought:

brought: And if the verdict ſhall paſs with the defendant or defendants in anie ſuch Account, Bill or Plaint or Suit, or the Plaintiff or Plaintiffs therin become Nonſuit or ſuffer a diſcontinuance thereof, that in every ſuch caſe the defendant or defendants ſhall have ſuch double coſts and all other advantages and remedies, as in and by the ſaid former Act is limited, directed and provided.

FINIS.

ERRATA.

Page 84. l. 11. read Censure instead of Tenure: for other Literal faults, the Reader is desired to Correct with his Pen.

THis Author hath in Print a very useful Piece, called *Justice Revived*, Or, *The whole Office of a Country Justice of the Peace.*

Er. S. M.
24/3/08